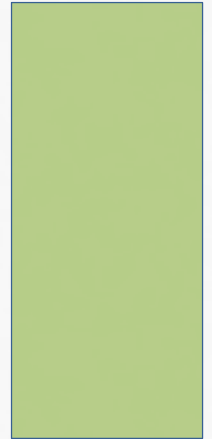


CITY OF FRESNO BUILDING STANDARDS APPEAL BOARD

THE OBLIGATION OF THE BUILDING STANDARDS APPEALS
BOARD AND THE REQUIRED BURDEN OF PROOF



WORKSHOP OVERVIEW & INTENT

- **Goal:** Provide the Building Standards Appeals Board with an explanation of its responsibility and obligation in an appeal before the Board, explain the burden of proof required in matters before the Board, and which party has the Burden of proof in a matter before the Board.
- **Define:** The hearing procedures applicable to a hearing before the Board, the standard of proof that is applied and the entity responsible for establishing the burden of proof.
- **Outcome:** Assist the Board Members in understanding their obligation when deciding an appeal, and the standard of proof required in matters before the Board.

THE ADMINISTRATIVE HEARING PROCEDURES APPLICABLE TO APPEALS BEFORE THE BOARD UNDER

The Building Standard Appeals Board is obligated to hear and decide appeals of orders, decisions or determinations made by the Building Official and/or Code Enforcement that related to violations of the Housing Regulations set forth in Chapter 11, Article 3 of the FMC and the Dangerous Building Ordinance set for in Chapter 11, Article 4 of the FMC.

Per FMC 11-504(a) Board must conduct its hearing in accordance with the General Administrative Hearing Procedures set forth in Chapter 1 Article 4 of the FMC.

LIMITATIONS OF AUTHORITY

Per FMC § 11-504(b) The Building Standards Appeals Board does not have the authority to interpret the administrative provisions of Code or the power to waive any requirements of the FMC

ADMINISTRATIVE HEARING PROCEDURES

At the Administrative Appeals Hearing, the building official, officer or employee who issued the order, citation, decision, or determination, or his or her designee, has the obligation to present evidence in support of its findings or reasons for which the order, citation, decision or determination was based. FMC § 1-408(b)

The building official, officer or employee who issued the order, citation, decision, or determination, or his or her designee, is obligated to establish his or her position by a Preponderance of the evidence. FMC § 1-408(f)

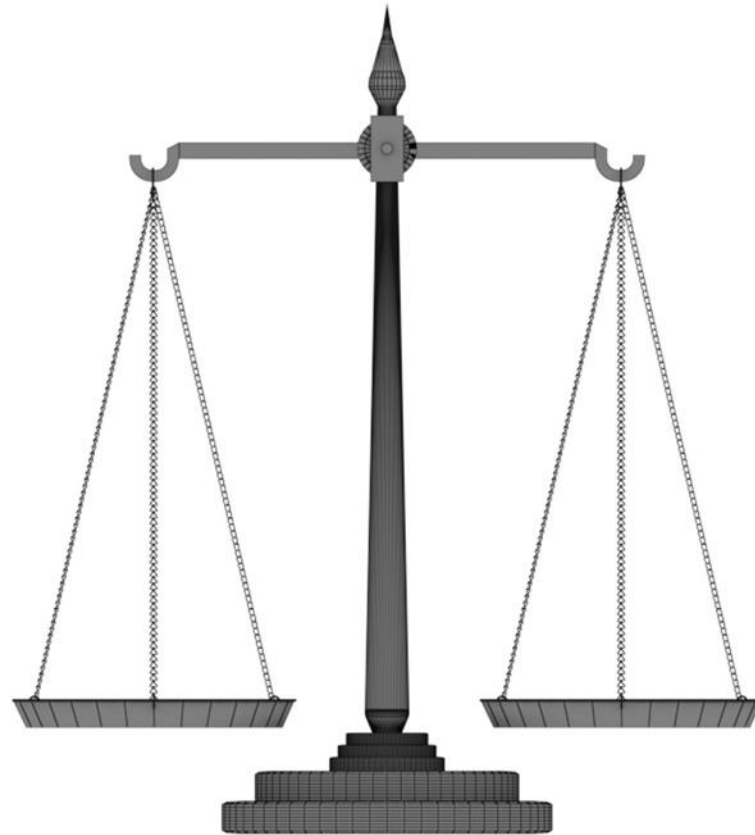
PREPONDERANCE OF EVIDENCE

- The preponderance of the evidence standard is the lowest standard of proof and simply requires the trier of fact to believe that the existence of a fact is more probable or likely to be true than not. **People v. Ramirez (2022)** 14 Cal.5th 176, 189; **Conservation of O.B. (2020)** 9 Cal.5th, 989, 998; **Gabell v. Conejo Hardwoods, Inc. (2011)** 193 Cal.App.4th 1563, 1569 and **People v. Herrera (2000)** 83 Cal.4th 46, 61.
- As explained in California Judicial Council Civil Jury Instruction 200, the party who has the burden of proof “must persuade you, by the evidence presented [before the Board] that what they are required prove is more likely to be true than not true. After weighing all of the evidence [presented by all parties] you cannot decide that something is more likely to be true than not true, you must conclude that party did not prove it.”

PREPONDERANCE OF EVIDENCE

- Preponderance of the evidence is a legal standard that requires a party to prove that their claim is more likely true than not true, effectively demonstrating a greater than fifty per cent likelihood to be true based on the evidence presented.

WHEN SCALES ARE EQUAL THE PARTY HAS
NOT PROVEN ITS CASE



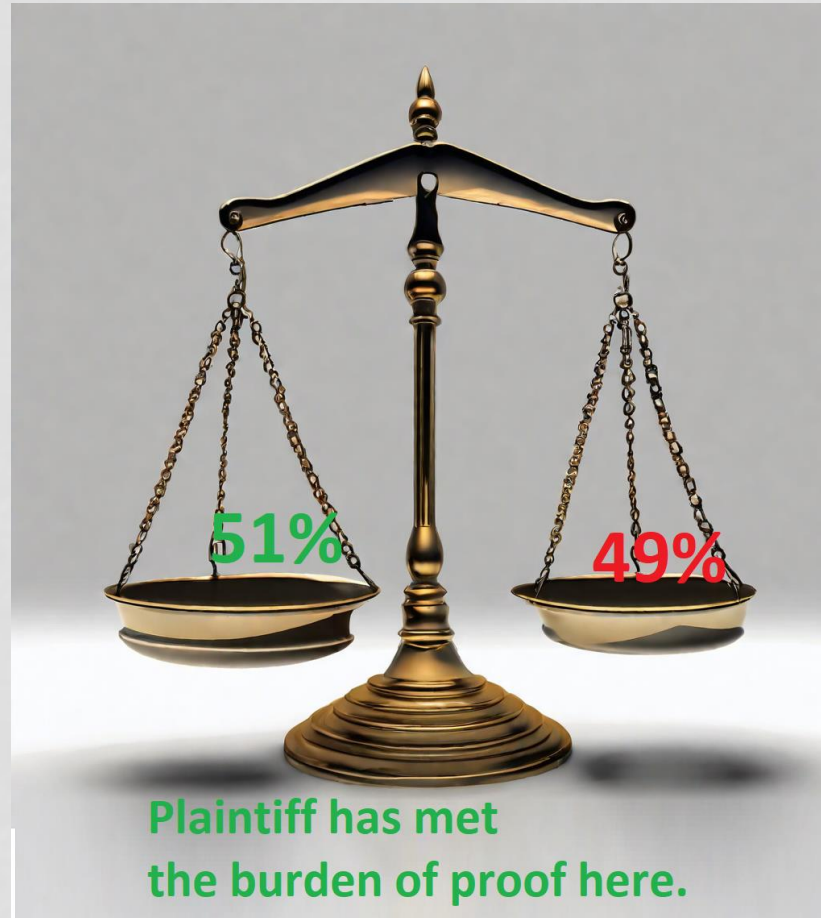
WHEN THE EVIDENCE TIP THE SCALES HOWEVER SLIGHTLY
IN FAVOR OF A PARTY, THEN THAT PARTY HAS ESTABLISHED ITS
CLAIM OR DEFENSE BY A PREPONDERANCE OF THE EVIDENCE

Preponderance of Evidence: 50.01%



"I'm not sure, but I think so."

ANOTHER EXAMPLE OF WHEN PREPONDERANCE OF THE EVIDENCE BURDEN HAS BEEN MET



QUESTIONS

